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 NCR CORPORATION

UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF CALIFORNIA

GLEN R. HAGEN,

Plaintiff,

vs.

NCR CORPORATION, and DOES 1
 through 100,

Defendant.

Case No. 07 CV-2205 DMS (CAB)

**AFFIDAVIT OF M.D. SCULLY IN
 SUPPORT OF OPPOSITION TO
 PLAINTIFF'S EX PARTE
 APPLICATION TO CONTINUE
 EXPERT DESIGNATION AND
 RELATED DATES**

[FRCP 26(a)(2)(C)]

I, M.D. Scully have personal knowledge of the following facts and if called
 upon could competently testify:

1. I understood the expert designation deadline was June 17, 2008. Prior
 to that date, I had communications with Plaintiff's counsel, Thomas Gill, on the
 issue of depositions and the presence of Plaintiff's neuropsychologist, Lisa
 Davidson M.D., at Plaintiff's deposition. At no time during any of these
 communications did Mr. Gill indicate he would be retaining an expert witness, nor
 did Mr. Gill indicate he was having any difficulty retaining an expert witness.

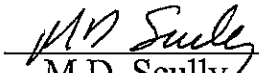
2. The first time I became aware that Plaintiff intended to designate an
 expert witness was June 20, after the designation deadline had passed. Plaintiff has
 identified four treating physicians in discovery to date, three of whom have
 neurology backgrounds. Defendant will be extremely prejudiced in expending

1 both time and money to examine an additional neurology "expert" who can add
2 little more in analysis and explanation than that of Plaintiff's treating neurology
3 doctors.

4 3. Furthermore, I took the deposition of Dr. Davidson on June 10 with
5 the understanding that there would not be expert witnesses in this case.

6 4. Permitting Plaintiff to insert an additional fifth doctor into this case at
7 this late date would be prejudicial to Defendant by increasing the cost and time to
8 effectively litigate the case and would only serve to either confuse issues that other
9 treating physicians could competently testify to or cumulatively add testimony that
10 would be unnecessary.

11 I declare under penalty of perjury under the laws of the United States that
12 the foregoing is true and correct. Executed this 11th day of July, 2008, at San
13 Diego, California.

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15 M.D. Scully
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UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF CALIFORNIA	COURT USE ONLY
ATTORNEY OR PARTY WITHOUT ATTORNEY (Name and Address): Telephone No. M.D. Scully (SBN: 135853) Tel: (619) 696-6700 Jason R. Dawson (SBN: 208906) Fax: (619) 696-7124 GORDON & REES LLP 101 West Broadway, Suite 1600 San Diego, CA 92101	
SHORT CASE TITLE GLEN R. HAGEN v. NCR CORPORATION	JUDGE: DEPT:
ATTORNEYS FOR DEFENDANT NCR CORPORATION	Court Case 07-CV-2205 DMS (CAB)

PROOF OF SERVICE

I, the undersigned, say: I am over 18 years of age, employed in the County of San Diego, California, in which the within-mentioned service occurred; and that I am not a party to the subject cause. My business address is 101 West Broadway, Suite 2000, San Diego, California 92101.

I hereby certify that on July 11, 2008, a copy of the foregoing documents listed below were filed electronically.

1. **OPPOSITION TO PLAINTIFF'S EX PARTE APPLICATION TO CONTINUE EXPERT DESIGNATION AND RELATED DATES**
2. **AFFIDAVIT OF M.D. SCULLY IN SUPPORT OF OPPOSITION TO PLAINTIFF'S EX PARTE APPLICATION TO CONTINUE EXPERT DESIGNATION AND RELATED DATES**

Notice of this filing will be sent by operation of the Court's electronic filing system (ECF) to the following parties which are indicated on the electronic filing receipt.

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Tel: 619-286-9393 / Fax: 858-695-1947
Attorneys for Plaintiff GLEN R. HAGEN

I declare that I am employed in the office of a member of the bar of this court whose direction the service was made.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on July 11, 2008.



Sharon Daubert